IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 428 OF 2005
IN
SECOND APPEAL (STAMP) NO. 3605 OF 2005

Shri Namdeo Shripati Shinde ..Applicant

Vs.

1. Shri Nivrutti Shripati Shinde
and ors. ..Respondents

Mr. Umesh Mankapure for applicant.
Mr. S.N. Gawade for respondent nos.2, 3a and 3b.

CORAM: B.H. MARLAPALLE, J.

Date : June 05, 2007.

P.C.:

1. Regular Civil Suit No. 187 of 1984 came to be dismissed by the learned Civil Judge, J.D., at Vita on 29/8/1991 and the said decree was challenged in Regular Civil Appeal No. 419 of 1991. This appeal came to be dismissed on 16/1/2002. The plaintiff-applicant has challenged both these orders in Second Appeal under Stamp No. 3605 of 2005 but belatedly and hence this application for condonation of delay.

2. As per the office note the second appeal is

beyond time by 2 years and 288 days. In support of this application it has been stated by the applicant - original plaintiff that due to his financial condition and more on account of the hospitalisation of his brother he could not take timely steps to file the appeal earlier. He further stated that he had handed over the papers to his Advocate at Mumbai on 3/9/2003 and the Advocate had called upon him to furnish the grounds for condoning the delay. It appears that subsequently the papers were misplaced. It was then noticed that the appeal was not filed till 5/2/2005.

3. Having regards to the peculiar facts of this case, I am satisfied that good and sufficient reasons have been made out to condone the delay.

4. Hence the application is allowed. The delay caused in filing the second appeal is hereby condoned subject to payment of costs quantified at Rs.1000/- and to be remitted to the Maharashtra State Legal Services Authority within two weeks from today.

(B.H. Marlapalle,J.)